

SENATE BILL NO. 332

INTRODUCED BY M. WATERMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS GOVERNING RESOURCE TESTS FOR CERTAIN PUBLIC ASSISTANCE PROGRAMS; REQUIRING THAT THE RESOURCE TESTS MAY NOT BE MORE RESTRICTIVE THAN TESTS REQUIRED BY FEDERAL LAWS OR WAIVERS; ELIMINATING THE RESOURCE TEST FOR INFANTS AND PREGNANT WOMEN WHOSE FAMILY INCOME IS UNDER 133 PERCENT OF THE FEDERAL POVERTY LEVEL; AMENDING SECTIONS 53-2-901, 53-4-212, 53-4-237, 53-4-608, 53-4-1006, AND 53-6-131, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-2-901, MCA, is amended to read:

"53-2-901. Administration of food stamp program -- rulemaking authority. (1) The department is authorized to administer the food stamp program in compliance with all federal laws and requirements.

(2) The department shall adopt rules that are necessary and desirable for the administration of the food stamp program.

(3) The department shall adopt rules that may include but are not limited to rules concerning:

(a) eligibility for assistance, including income and resource limitations, income and resource exclusions, and transfers of resources in order to be in compliance with federal law;

(b) amounts of assistance and methods for determining benefit amount;

(c) periodic redetermination of eligibility;

(d) reporting requirements;

(e) work registration, employment, and training requirements and exemptions from those requirements;

(f) procedures and policies of the employment and training program;

(g) disqualification because of intentional program violations, for voluntarily quitting a job without good cause, or for any other violation of program rules; and

(h) penalties applicable to recipients of FAIM financial assistance who have been sanctioned because of failure to meet any requirement of that program.

1 (4) The department may adopt rules that include but are not limited to rules concerning:

2 (a) requirements for recipients to assign the right of support;

3 (b) requirements for recipients to cooperate with the state agency administering the child support
4 enforcement program established under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq.; and

5 (c) disqualification for failure to perform actions required by other means-tested programs, for
6 failure to cooperate with the state agency administering the child support enforcement program under Title
7 IV-D of the Social Security Act, 42 U.S.C. 651, et seq., or for failure to pay court-ordered child support
8 as provided in sections 819, 822, and 823 of the Personal Responsibility and Work Opportunity
9 Reconciliation Act of 1996, 7 U.S.C. 2015."

10
11 **Section 2.** Section 53-4-212, MCA, is amended to read:

12 **"53-4-212. Department to make rules.** (1) The department shall make rules and take action as
13 necessary or desirable for the administration of the FAIM financial assistance program and other programs
14 funded under the temporary assistance for needy families block grant.

15 (2) The department shall adopt rules that may include but are not limited to rules concerning:

16 (a) eligibility requirements, including gross and net income limitations, resource limitations, and
17 income and resource exclusions that are in compliance with federal law or federal waivers;

18 (b) amounts of assistance and methods for computing benefit amounts;

19 (c) the degree of kinship required for a person to qualify as a specified caretaker relative in order
20 to be eligible for assistance;

21 (d) procedures and policies for employment and training programs, requirements for participation
22 in employment and training programs, and exemptions, if any, from participation requirements;

23 (e) requirements for specified caretaker relatives participating in the community services program,
24 including the number of hours of community service work per month and other terms of performance;

25 (f) eligibility for and terms and conditions of child-care assistance for FAIM project participants,
26 including maximum amounts of assistance payable and amounts of copayments required by specified
27 caretaker relatives;

28 (g) maximum amounts of one-time only cash payments for special employment-related needs and
29 the length of time that a family is required to remain off cash assistance after a payment is received;

30 (h) exemptions from time limits in pathways and the community services program;

(i) terms of a specified caretaker relative's or other family member's ineligibility for assistance because of failure to enter into a family investment agreement or to comply with the individual's obligations under the agreement, including the length of the period of ineligibility;

(j) requirements, if any, for participation in and exemptions from participation in and procedures and policies of the employment and training demonstration project;

(k) eligibility for and terms and conditions of extended child-care and medical assistance benefits;

(l) reporting requirements;

(m) sanctions, disqualification, or other penalties for failure to comply with the program rules or requirements;

(n) exemptions from the 60-month limitation on assistance provided in 53-4-231 based on hardship or for families that include an individual who has been battered or subjected to extreme cruelty, as defined in section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608, including but not limited to the duration of the exemption;

(o) individuals who must be included as members of an assistance unit;

(p) categories of aliens who may receive assistance, if any;

(q) requirements relating to the assignment of child and medical support rights and cooperation in establishing paternity and obtaining child and medical support;

(r) requirements for eligibility and other terms and conditions of other programs to strengthen and preserve families;

(s) special eligibility or participation requirements applicable to teenage parents, if any; and

(t) conditions under which assistance may be continued when a dependent child is temporarily absent from the home and the length of time for which assistance may be continued."

Section 3. Section 53-4-237, MCA, is amended to read:

"53-4-237. Stepparent resources and income. Notwithstanding the provisions of 40-6-217, in the administration of this part, the department may consider the income and resources of stepparents and other individuals who reside in the home as resources and income available to the household to the extent required by federal law."

Section 4. Section 53-4-608, MCA, is amended to read:

1 **"53-4-608. Results of failure to comply with terms of agreement.** If an individual is required to
2 enter into a family investment agreement pursuant to 53-4-606 and fails without good cause to enter into
3 an agreement, the individual is ineligible for FAIM financial assistance. If an individual is required to enter
4 into a family investment agreement pursuant to 53-4-606 and fails without good cause to comply with
5 the individual's obligations under the agreement, the individual must be sanctioned for a period of time
6 specified by the department by rule and the needs of the individual may not be taken into consideration
7 in determining the assistance unit's amount of cash assistance. However, the family of a sanctioned
8 individual is entitled to assistance for its own needs if it is otherwise eligible. The income and resources
9 of the individual, determined pursuant to 53-4-606(1), must be considered in determining the family's
10 eligibility for assistance during the period that the individual is sanctioned."

11

12 **Section 5.** Section 53-4-1006, MCA, is amended to read:

13 **"53-4-1006. Simplified application form for programs that provide medical assistance or benefits**
14 **or health insurance to children.** (1) The department of public health and human services shall develop and
15 implement the use of a simplified application form and process to determine eligibility for children to
16 receive:

17 (a) medical assistance or medical benefits as provided in 53-6-131;

18 (b) the child-only group health insurance plan provided through the federal Title IV-D program of
19 the department; or

20 (c) health care under the state children's health insurance program as provided in this part.

21 (2) The application for eligibility for medical assistance may not presume that application is being
22 made for other forms of public assistance. ~~An~~ Subject to 53-4-1009(3), an appropriate resource test may
23 be incorporated into the application. The department of public health and human services shall coordinate
24 education and outreach efforts with any organization performing education and outreach for any of the
25 programs that are included in the form."

26

27 **Section 6.** Section 53-6-131, MCA, is amended to read:

28 **"53-6-131. Eligibility requirements.** (1) Medical assistance under the Montana medicaid program
29 may be granted to a person who is determined by the department of public health and human services,
30 in its discretion, to be eligible as follows:

(a) The person receives or is considered to be receiving supplemental security income benefits under Title XVI of the Social Security Act, 42 U.S.C. 1381, et seq., and does not have income or resources in excess of the applicable medical assistance limits or receive from FAIM financial assistance, as defined in 53-4-702, benefits under Title IV of the federal Social Security Act, 42 U.S.C. 601, et seq.

(b) The person would be eligible for assistance under a program described in subsection (1)(a) if that person were to apply for that assistance.

(c) The person is in a medical facility that is a medicaid provider and, but for residence in the facility, the person would be receiving assistance under one of the programs in subsection (1)(a).

(d) The person is under 19 years of age and meets the conditions of eligibility in the state plan, as defined in 53-4-201, other than with respect to age and school attendance.

(e) The person is under 21 years of age and in foster care under the supervision of the state or was in foster care under the supervision of the state and has been adopted as a child with special needs.

(f) The person meets the nonfinancial criteria of the categories in subsections (1)(a) through (1)(e) and:

(i) the person's income does not exceed the income level specified for federally aided categories of assistance and the person's resources are within the resource standards of the federal supplemental security income program; or

(ii) the person, while having income greater than the medically needy income level specified for federally aided categories of assistance:

(A) has an adjusted income level, after incurring medical expenses, that does not exceed the medically needy income level specified for federally aided categories of assistance or, alternatively, has paid in cash to the department the amount by which the person's income exceeds the medically needy income level specified for federally aided categories of assistance; and

(B) has resources that are within the resource standards of the federal supplemental security income program.

(g) The person is a qualified pregnant woman or child as defined in 42 U.S.C. 1396d(n).

(2) The department may establish income and resource limitations. Limitations of income and resources must be within the amounts permitted by federal law for the medicaid program.

(3) The Montana medicaid program shall pay, as required by federal law, the premiums necessary for medicaid-eligible persons participating in the medicare program and may, within the discretion of the

department, pay all or a portion of the medicare premiums, deductibles, and coinsurance for a qualified medicare-eligible person or for a qualified disabled and working individual, as defined in section 6408(d)(2) of the federal Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, who:

(a) has income that does not exceed income standards as may be required by the Social Security Act; and

(b) has resources that do not exceed standards that the department determines reasonable for purposes of the program.

(4) The department may pay a medicaid-eligible person's expenses for premiums, coinsurance, and similar costs for health insurance or other available health coverage, as provided in 42 U.S.C. 1396b(a)(1).

(5) In accordance with waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department of public health and human services may grant eligibility for basic medicaid benefits as described in 53-6-101 to an individual receiving FAIM financial assistance, as defined in 53-4-702, as the specified caretaker relative of a dependent child under the FAIM project and to all adult recipients of medical assistance only who are covered under a group related to the program of FAIM financial assistance. A recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage as provided in 53-6-101.

(6) The department, under the Montana medicaid program, may provide, if a waiver is not available from the federal government, medicaid and other assistance mandated by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, and not specifically listed in this part to categories of persons that may be designated by the act for receipt of assistance.

(7) Notwithstanding any other provision of this chapter, medical assistance must be provided to infants and pregnant women whose family income does not exceed 133% of the federal poverty threshold, as provided in 42 U.S.C. 1396a(a)(10)(A)(ii)(IX) and 42 U.S.C. 1396a(l)(2)(A)(i), ~~and whose family resources do not exceed standards that the department determines reasonable for purposes of the program.~~

(8) Subject to appropriations, the department may cooperate with and make grants to a nonprofit corporation that uses donated funds to provide basic preventive and primary health care medical benefits to children whose families are ineligible for the Montana medicaid program and who are ineligible for any

1 other health care coverage, are under 19 years of age, and are enrolled in school if of school age.

2 (9) A person described in subsection (7) must be provided continuous eligibility for medical
3 assistance, as authorized in 42 U.S.C. 1396a(e)(5) through a(e)(7).

4 (10) The department may establish resource and income standards of eligibility for mental health
5 services that are more liberal than the resource and income standards of eligibility for physical health
6 services. The standards for eligibility for mental health services may provide for eligibility for households
7 not eligible for medicaid with family income that does not exceed 200% of the federal poverty threshold
8 or that does not exceed a lesser amount determined in the discretion of the department. The department
9 may by rule specify under what circumstances deductions for medical expenses should be used to reduce
10 countable family income in determining eligibility. The department may also adopt rules establishing fees,
11 premiums, or copayments to be charged recipients for services. The fees, premiums, or copayments may
12 vary according to family income."

13

14 NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 2001.

15

- END -